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**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**FRESNO DIVISION**

In re  
ENNIS HOMES, INC.,  
Debtor.

CASE NO. 09-10848-WR

Chapter 11

DC No. FRBC-4

**CASH COLLATERAL MOTION  
LIMITED OPPOSITION OF SECURED  
CREDITOR CITIZENS BUSINESS BANK**

**Date: March 11, 2009**

**Time: 1:30 p.m.**

**Place: Courtroom 11 (Fresno)**

**TO: THE HONORABLE WHITNEY RIMEL, UNITED STATES BANKRUPTCY  
JUDGE.**

Citizens Business Bank ("Citizens") is a secured creditor of debtor Ennis Homes,  
Inc. ("Debtor" or "Ennis"). As set forth in the Coolidge Declaration (Docket No. FRBC-3),

1 Citizens is owed approximately \$3.6 million and is secured by the senior-most monetary  
2 encumbrances on Silver Springs development, which consists of 48 lots, of which 2 are model  
3 homes and 2 are partially built homes. Citizens also holds the senior-most encumbrance on a  
4 single lot located at 2204 Charlie Chambers Dr., Hanford, CA ("Charlie Chambers"). The Debtor's  
5 Schedules filed on February 13, 2009, admit the debt owed to Citizens on Schedule D, page 2 of  
6 10, and state on Schedule A, page 1, that the value of the Silver Springs development is \$2.945  
7 million.  
8

9 Citizens is filing this limited cash collateral motion opposition because it is unclear from  
10 the cash collateral motion filed by Ennis whether and to what extent Ennis is seeking to use the  
11 cash collateral of Citizens. One reading of the motion is that Ennis is not seeking to use Citizen's  
12 cash collateral, because Ennis seems to be seeking use of money on deposit at other institutions  
13 (which presumably are claimed as collateral by those institutions) and/or the proceeds of sales of  
14 lots from developments other than Silver Springs. However, it is also possible to conclude that  
15 Ennis may be seeking to use the proceeds of sales of lots encumbered in favor of Citizens. Neither  
16 the Brian Ennis declaration supporting the motion, nor the cash collateral budget attached to the  
17 motion, actually disclose which lots Ennis claims to have sold, or is planning on selling.  
18

19 There is one reference in the Brian Ennis declaration to \$685,260 "on deposit" at Chicago  
20 Title. But, Chicago Title is not a deposit taking bank, and that money would seem to be the  
21 proceeds from the sales of some real property somewhere. In fact, that money is referred to in  
22 Schedule B, page 3 of 3, line item 35 as "Funds held in escrow at Chicago Title for disputed liens  
23 on concluded sales." The motion is silent as to where those proceeds came from, from which  
24 project they were generated, or whose liens are or were being disputed.  
25

26 Additionally, Ennis seems to believe that it needs only to offer adequate protection to  
27 banks that filed UCC-1 financing statements at the secretary of state level. It ignores the rights of  
28

1 real property secured creditors like Citizens with rights in rents, issues, and profits. The cash  
2 collateral budget, however, posits the use by Ennis of the proceeds of 17 different home sale  
3 closings, in the aggregate amount of \$3,926,397. The lots being sold are no where identified and  
4 Citizens can not tell from the motion if Ennis is planning on selling parcels encumbered to  
5 Citizens, or what the budgeted "Less release prices" means as to Silver Springs and Citizens.  
6

7 Assuming that no proceeds from the sale of any real property encumbered in favor of  
8 Citizens are planned on being used, Citizens has no objection. If any portion of the amounts being  
9 budgeted comes from Citizens' collateral, however, its rights are not being adequately protected,  
10 or protected at all from the terms disclosed in the motion.

11 **WHEREFORE**, Citizens respectfully requests that the Court deny the use of any cash  
12 collateral from any property encumbered by the liens in favor of Citizens, and otherwise to  
13 provide to Citizens adequate protection of its rights and interests.  
14

15 DATED: March 10, 2009

Respectfully submitted,

16 LANG, RICHERT & PATCH

17 and

18 FRANDZEL ROBINS BLOOM & CSATO, L.C.

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20 By: /s/ Michael Gerard Fletcher

21 MICHAEL GERARD FLETCHER

22 Attorneys for Secured Creditor Citizen Business  
23 Bank  
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